

**Arizona State
Board of Homeopathic and Integrated Medicine
Examiners**

***DRAFT**

**Minutes of Teleconference Meeting
Held on**

August 5, 2008

I. Call to Order, Roll Call

Presiding officer, Dr. Todd Rowe, called the meeting to order at 8:02 a.m.

Roll Call

Present:

Todd Rowe, MD, MD(H)
Don Farris
Martha Grout, MD, MD(H) (arrived 1:12 p.m.)
Les Adler, MD, MD(H)
Marie Stika
David Rupley, Jr., MD(H)

Absent:

Dan Christl, Assistant Attorney General and Christine Springer, Executive Director and members of the public were also present.

II. Review, Consideration, and Action on Applications

A. Medical Assistants
Eve Greenberg

There was considerable discussion regarding the application filed by Ms. Greenberg. The Board reviewed Assistant Attorney General Christl's memorandum regarding whether or not the intention of A.A.C. R4-38-301(H) regarding on-site supervision of a medical assistant would be met should Ms. Greenberg provide assistance to Dr. Zieve's patients by telephone from her residence in Colorado.

Dr. Rowe made a motion to table the application, noting that the job description of the medical assistant's duties did not meet the intent of the current rules relating to 'on-site supervision' of medical assistants. A substantive request for additional information will be sent to Ms. Greenberg requesting additional information regarding the job description as it relates to on-site supervision. The Board also discussed whether or not the intent of the rule would be met should Dr. Zieve be

present on the premises while the patient contacts Ms. Greenberg for nutritional counseling. They noted that the applicant may also withdraw their request should she choose to do so.

Roll call to Table: 6-0 - Aye
Adler, Farris, Stika, Grout, Rupley, and Rowe

III. Complaints and Investigations

A. Review, consideration, and Action – Ongoing Investigations

Case No. 08-11 Elliott Schmerler MD(H)

Mrs. Springer presented an overview of this matter to the Board noting she had been contacted by one of Dr. Schmerler's former patients. She explained that the patient indicated Dr. Schmerler had performed a liposuction procedure on her in May, 2007. Mrs. Springer explained that her investigation was ongoing and that in light of this new information she believed the Board should be aware of the new development.

The Board discussed the investigation, the types of hearings that are available pursuant to A.R.S. §32-2934 and whether or not Dr. Schmerler was practicing in Arizona. Mrs. Springer explained that he was not practicing in Arizona at the present time and had been in Nevada since May, 2008.

AAG Christl explained that if a summary suspension were issued, Dr. Schmerler would have to be practicing within Arizona, which did not appear to be the case at this time. Additional discussion was held regarding the parameters necessary for the voluntary suspension of Dr. Schmerler's homeopathic medical license.

Dr. Grout made a motion requesting that Dr. Schmerler be notified that the Board is requesting a six-month voluntary suspension of his homeopathic medical license to allow time for the Board to complete their investigation. Mrs. Springer was directed to obtain the medical records for the patient that had contacted her by telephone.

Roll call to continue investigation and to request a voluntary suspension of Dr. Schmerler's medical license: 6 – 0 Aye
Stika, Adler, Rowe, Farris, Grout, Rupely

B. Review, Consideration and Action - Initial Review(s)

Case No. 09-01 Structural Pest Control Commission Inquiry Re: Abram Ber And Lloyd Arnold, DO, MD(H)

Noting personal knowledge of the complainant that had filed a complaint with the Structural Pest Control Commission, Dr. Grout recused herself from this discussion.

Initiating the discussion, Dr. Rowe requested that Mrs. Springer provide a background of the matter. Mrs. Springer stated that the Structural Pest Control Commission had forwarded information to the Board in June, 2008 after consumer, V.B., complained in 2007 that a 1997 pesticide application of Dursbane made her ill. After conducting their

own investigation of the company that applied the pesticide and finding no evidence of wrongdoing, the Commission referred the information to the Board.

Dr. Rowe commented that the V.B.'s lab information included with the Commission's report showed clear evidence of metal toxicity in the patient and the patient's symptoms were consistent with pesticide poisoning. Dr. Adler commented that Dursbane does not cause heavy metal toxicity and that Dursbane toxicity can not be measured by the presence of heavy metals in the body. Dr. Rowe explained that pesticide exposure could make the body more susceptible to heavy metal accumulation and be an indirect effect of the toxicity caused by the pesticide.

Dr. Rupley discussed the effects of chelation therapy and how it could be beneficial to individuals suffering the toxic effects caused by accumulated heavy metals within their body.

Mr. Farris made a motion to close the inquiry with no further action, noting that there was no evidence of improper diagnosis. Dr. Rowe seconded the motion that passed with a majority vote.

Roll call to close the inquiry and take no action: 5 – 0 Aye
Stika, Rowe, Farris, Adler, Rupley
Grout Recused

Case No. 08-14

J.K. vs. David Rupley, Jr. MD(H)

Dr. Rupley recused himself from this discussion, severed his phone connection and was not present for the discussion.

At Dr. Rowe's request, Mrs. Springer provided the background of the complaint and noted that her investigation was ongoing and additional information was pending from the Department of Corrections where Dr. Rupley had been employed during the timeframe indicated in J.K.'s complaint.

J.K. was present during the discussion and at the Board's request made a statement. J.K. explained that he had worked with Dr. Rupley at the Department of Corrections from 2001 through 2004. J.K. stated his concerns and allegations were targeted to the proper care of inmates undergoing drug therapies for depression.

Dr. Rowe and board members questioned J.K. regarding his allegations. Noting that the investigation was ongoing and additional information had been requested from the Department of Corrections the Board tabled the matter and requested that Mrs. Springer contact the Department to urge their cooperation in providing the requested information.

Roll Call to Table: 5-0 Aye
Stika, Farris, Adler, Rowe, Grout
Rupley Recused

IV. ADJOURNMENT

The meeting adjourned at 10:00 a.m. following a motion by Dr. Grout. The motion was seconded by Mr. Farris and passed unanimously. The next Regular Meeting of the Board

Teleconference Meeting Minutes August 5, 2008

will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 A.M. on September 9, 2008.

Respectfully Submitted,

Christine Springer
Executive Director

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